

# SENATE—SPECIAL SESSION.

## IN SENATE.

TUESDAY, June 15, 1858.

At twelve o'clock, m., the Hon. BENJAMIN FITZPATRICK, President *pro tempore* of the Senate, took the chair and called the Senate to order.

The PRESIDENT *pro tempore*. The Secretary will read the proclamation of the President of the United States.

The Secretary read it, as follows:

*By the President of the United States of America.*

### A PROCLAMATION.

Whereas, an extraordinary occasion has occurred, rendering it necessary and proper that the Senate of the United States shall be convened, to receive and act upon such communications as have been or may be made to it, on the part of the Executive:

Now, therefore, I, JAMES BUCHANAN, President of the United States, do issue this, my proclamation, declaring that an extraordinary occasion requires the Senate of the United States to convene, for the transaction of business, at the Capitol, in the city of Washington, on the 15th day of this month, at twelve o'clock, at noon, of that day, of which all who shall, at that time, be entitled to act as members of that body, are hereby required to take notice.

Given under my hand and the seal of the United States, Washington, this 14th day of June, anno Domini [SEAL.] 1858, and of the independence of the United States the eighty-second. JAMES BUCHANAN.

By the President:

LEWIS CASS, Secretary of State.

On motion of Mr. ALLEN, it was

*Resolved*, That a committee of two members be appointed to wait on the President of the United States and inform him that a quorum of the Senate has assembled, and that the Senate is ready to receive any communication he may be pleased to make.

Mr. ALLEN and Mr. SEWARD were appointed the committee.

## STANDING COMMITTEES.

Mr. GREEN. I move that the standing committees, as they were at the close of the regular session, be continued during the present special session.

The motion was agreed to by unanimous consent.

## CLAIMS AGAINST RUSSIA.

Mr. GREEN. I beg leave to present a memorial, which I will read:

*To the honorable the Senate of the United States:*

Benjamin W. Perkins, of Worcester, Massachusetts, a citizen of the United States, respectfully shows:

That in June, 1855, or thereabouts, the Government of Russia, by its accredited Minister, now resident in the city of Washington, contracted to purchase of the memorialist the quantity of one hundred and fifty tons of powder, to be ready for shipment within sixty days thereafter; that the memorialist duly performed the conditions of said contract on his part, but that the Government of Russia wholly failed to fulfill the conditions on their part:

That on or about January, 1856, the said Government of Russia, by its agent, also contracted to purchase thirty-five thousand stands of arms, to be delivered by the 1st of June thereafter; which contract was also duly performed on his part, but remains also unfulfilled and violated by the Russian agents:

That thereby the memorialist is wholly ruined; that the damages to him exceed the sum of \$385,000:

That the Government of Russia is beyond his reach, and its said Minister is protected by diplomatic privilege:

That the memorialist has not within his reach the remedies afforded in ordinary cases for obtaining evidence in the possession of the adverse party by compulsory means:

That there are persons in possession of evidence material to the memorialist in this matter, who will not give their testimony except upon legal compulsion:

That the only means of obtaining redress against the injustice and oppression practiced upon him is by the action of your honorable body:

That your memorialist is ready to prove his aforesaid allegations, at such time and in such manner as the Senate

may direct. And he prays your honorable body to take the necessary and proper action to relieve him in the premises, and to guard his rights and protect his property from the unjust action of the aforesaid foreign Government; and that the evidence hereinbefore referred to be obtained by the lawful authority of your honorable body.

B. W. PERKINS.

In connection with this memorial I offer the following resolutions:

*Resolved*, That the President be respectfully requested to cause to be communicated to the Senate, at the commencement of its next session, whether any complaints have been made to the Government of the United States that contracts have been entered into with citizens of the United States by the Russian Government, through the agency of its Minister now resident at Washington, or other persons on recommendation of said Minister; and that although such contracts had been fully performed by the citizens who had entered into the same, they have been violated by the Russian Government or its agents, to the great injury, if not entire ruin, of such citizens.

*Resolved*, That all evidence of any such contracts in possession of the Government, together with such information as to the action of the Government in the premises, be communicated to the Senate, (if not incompatible with the public interests,) and that all such information be communicated in confidence.

It appears that, during the war between Russia and the allied Powers, contracts were entered into, not only by Russia with citizens of the United States, but also by the Governments of Great Britain and of France, for various supplies and for transportation. It was decided by the Attorney General, in accordance with the uniform law governing nations, that contracts may be made for articles even contraband of war, the contractors taking the risk of detection; but the contract itself, as between the parties, is a binding, valid contract. Without undertaking to assume the truth or falsehood of the facts stated by this memorialist, he presents a case, in my opinion, that demands the interposition of our Government. When the facts are elicited, it may be that it will turn out that this memorialist is mistaken; but, when the charge comes in a plausible shape; when it comes presenting a *prima facie* good case, it is the duty of the Government to protect its citizen, and have the matter investigated. It is alone with that view that I have presented this memorial; and, as in this extra session no definitive action could be had, I move the reference of the memorial and resolutions to the Committee on Foreign Relations.

The motion was agreed to.

## COMMITTEE CLERKS.

Mr. JONES. I desire now to call up the resolution I offered yesterday, to continue, for sixty days, the clerks to the standing committees, as has heretofore been done.

The PRESIDENT *pro tempore*. Resolutions pending at the last session will not be in order at this session. They terminated with the expiration of the session last evening. The Senator can renew his resolution as an original resolution.

Mr. JONES. Is that absolutely necessary? I think I offered it in executive session. Has the business of the executive session to be renewed?

The PRESIDENT *pro tempore*. This is a new session.

Mr. JONES. Well, I offer the resolution now, *de novo*:

*Resolved*, That the clerks of the standing committees of the Senate, who are temporary, be continued for sixty days after the close of the present session.

The PRESIDENT *pro tempore*. The resolution will lie over under the rule.

## BRITISH AGGRESSIONS.

Mr. MASON. I desire to offer the resolutions which I send to the table, and which are the resolutions which were depending before the Senate at the session which closed yesterday, in reference to the aggressions committed on American vessels by British armed forces in the Gulf of Mexico, with a view to bring them before the Senate now in the condition in which they stood when the Senate adjourned yesterday. I introduce them as resolutions offered by me, and I ask that they be referred to the Committee on Foreign Relations, who have instructed me to report them back that we may have the subject before us in this debate.

Mr. STUART. It is necessary for us to come to an understanding, I think, at once as to what we can do. My recollection of the resolution offered by the Senator from Louisiana [Mr. SLIDELL] yesterday was, that it continued to the next regular session of Congress all the legislative business; and, if so, this is continued, and can only be reached by a motion to reconsider.

Mr. MASON. I did not advert to the fact, what was the character of that resolution; but I do not know that that will prevent me from introducing these resolutions *de novo*.

Mr. STUART. I suppose that is in order, if they are introduced as new resolutions.

The PRESIDENT *pro tempore*. It is in order to introduce the resolutions *de novo*.

Mr. MASON. I ask that they be read.

The Secretary read them, as follows:

*Resolved*, (as the judgment of the Senate,) That American vessels on the high seas, in time of peace, bearing the American flag, remain under the jurisdiction of the country to which they belong, and, therefore, any visitation, molestation, or detention of such vessels by force, or by the exhibition of force, on the part of a foreign Power, is in derogation of the sovereignty of the United States.

*Resolved*, That the recent and repeated violations of this immunity, committed by vessels-of-war belonging to the navy of Great Britain, in the Gulf of Mexico, and the adjacent seas, by firing into, interrupting, and otherwise forcibly detaining them on their voyage, requires, in the judgment of the Senate, such unequivocal and final disposition of the subject, by the Governments of Great Britain and the United States, touching the rights involved, as shall preclude, hereafter, the occurrence of like aggressions.

*Resolved*, That the Senate fully approves the action of the Executive in sending a naval force into the infested seas with orders "to protect all vessels of the United States on the high seas from search or detention, by the vessels-of-war of any other nation." And it is the opinion of the Senate, that, if it becomes necessary, such additional legislation should be supplied in aid of the executive power as will make such protection effectual.

Mr. MASON. I ask that an order may be made, referring these resolutions to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. Such will be the order, unless objected to.

Mr. MASON. Now, by the instruction of the committee, I report them back to the Senate. I ask that they be taken up for consideration now.

The Senate proceeded to consider the resolutions.

Mr. MASON. It is not my purpose at all to debate the resolutions, nor do I presume that they will attract debate in the Senate now, having been to some extent, even quite at large, debated during the last session; but I would say to the Senate, with great respect and deference, that it seems to me it is a matter of moment that the judgment of the Senate should be passed upon the resolutions, because of the probable bearing

it may have on any negotiations that may be pending between the two Governments. We have evidence since these resolutions were offered, some three or four weeks ago, that from some cause or other, these same aggressions have continued from time to time, in the Gulf of Mexico and the seas adjacent, by the armed forces of Great Britain. We have reason to believe also, from sources quasi official, that no new orders have been issued to the British naval squadron in reference to the right of visitation, or of search, for a number of years, and the probability is, that they are either acting without actual authority or by an undue perversion or extension of an existing authority.

I think, therefore, the high degree of probability is, that when the subject is brought to the attention of the British Government, there will not only be a disclaimer on their part of any intended offense, but that if anything remains to be settled between the two Governments, it will be upon the naked question of a right of visitation as part of what they may claim to be the police of the seas. The resolutions distinctly present that question between the two countries. It is in that view I think it important that the judgment of the Senate should be known in advance on that question. I hope that the Senate will take a vote on the resolutions. I ask, however, that they may be modified by the insertion of a phrase that ought to be there. The modification is in the second resolution, near the end, to make the sentence read: "Satisfy the just demands of this Government, and preclude hereafter the occurrence of like aggressions."

Mr. WADE. Mr. President, I am not going to debate this matter. While I do not doubt that the resolutions and the positions taken by the Committee on Foreign Relations assert the law of nations as it has always been understood by us, at least, and as we ought to maintain it, at the same time I wish to inquire of the chairman of the Committee on Foreign Relations whether these aggressions are not committed really for the purpose of putting down the slave trade? Is not that the apparent object? Has not our flag constantly been used to cover this trade? I wish particularly to inquire whether, if this nation and Great Britain and France are desirous of putting a stop to that trade, there is any real difficulty in making such an arrangement or treaty as might be honorable to all the parties concerned, and effectual to stop this trade, and prevent our flag's being used as a screen, a cover to its continuance. It has always seemed to me that there was really no difficulty in arranging the matter honorably and satisfactorily to all the parties; and I believe it is the duty of this Government, if it can be done, to enter into such an arrangement. While I no more justify these proceedings than the committee do, and believe them to be all wrong, yet I think the motive is to put down a trade abhorred by both nations, and which both should wish to prevent. Nor do I believe at all that Great Britain had any design to insult our flag in what she has done. She has pursued with great eagerness her endeavors to put down this trade, and supposed that, because of the strong intimation we have always held out of our abhorrence of it, we would perhaps bear with her more than on any other subject. It seems to me that there might be a proper arrangement made; and I wish to inquire of the Committee on Foreign Relations, who have turned their attention to this subject much more than I have, whether there is any inherent difficulty in making such an arrangement, in their judgment?

Mr. MASON. I will cheerfully afford to the Senator any information I have, which is no further information than that which is open to all alike, from the history that has attended our discussions and negotiations with Great Britain for many years past, but probably has been brought under my notice more recently than that of the Senator. It is an undoubted fact that the Government of Great Britain has been trying for many years to obtain from all maritime nations who have legislated against the slave trade a mutual concession of the right of search by treaty stipulation, and has obtained it from some of the Powers of Europe; but it is equally true that the United States have always refused it. The reason alleged on the part of England is that suggested by the honorable Senator, that there will

be a difficulty in their mutual efforts to suppress the slave trade, unless they have the mutual right of visitation in order to verify the flag of their respective nations; but it has been said by this Government in reply, that, however convenient and desirable it might be to prosecute more advantageously this mutual end by the mutual right of search, yet that is a concession which never can be made by the American Government, and they have urged what I confess impresses me, as it strongly has done the Government, of the utter improvidence and absence of propriety in the Government of the United States, or in any Government, submitting to the exercise of any police whatever, by any foreign Power, upon the territory of the United States, or upon their vessels under their flag, which constitute a part of their territory.

It is alleged on the part of the British Government, that the flag of the United States is very often fraudulently and improperly used in protecting a vessel which is engaged in the slave trade, and they have brought pretty plausible and strong evidences to show the fact. But be that as it may, the American Government reserves to itself the exclusive right of vindicating its own laws. I do not mean to say that there may be no practicable mode in negotiation for the final disposition of this question, if Great Britain does claim the right to visit for any purpose whatever, yet I confess, for one, I cannot see how it can be done. The right of the British authorities to visit an American vessel, for any purpose whatever, is one that I feel very well satisfied never can be conceded and never will be conceded by this Government; and yet I am equally assured, and I believe the British Government is assured, that the Government of the United States have left nothing undone, by stationing their cruisers off the coast of Africa, and by general stringent orders to take care that the laws of the country are not violated by our ships in carrying on this illegal trade. I believe that has been done by the Government, and I am satisfied it is the honest purpose, not only of those who have now the Government in charge, but of all their predecessors.

Mr. BENJAMIN. I trust that these resolutions will be adopted before the Senate adjourns. I had hoped that some opportunity would have been offered for a more elaborate discussion of the questions involved in them than has yet occurred. It is a subject deeply interesting to the country at large, and one which I presume the constituents of all of us desire to see maturely considered by Congress, and such measures taken as shall forever put an end to the pretensions now asserted by Great Britain. Sir, the Senator from Ohio tells us he has no doubt that the British Government, in the orders given to its cruisers, and that the action of the officers of the British Government, are directed by laudable motives. He supposes that they are directed solely to the suppression of the slave trade.

Mr. WADE. I did not say their motives were laudable, for I think they have acted against the law of nations in what they have done; but I believe the motive is to suppress the slave trade, inasmuch as I can see no other reason.

Mr. BENJAMIN. Mr. President, without going elaborately into that question, I will simply say that I have not so read the history of the relations between our country and Great Britain, as to give her entire credit for sincerity in the reasons urged for the exercise of this pretended right. Difficulties have constantly occurred between us and that Government, which pursues an aggressive and daring policy with a steadiness of purpose, a perseverance of means, and a single eye to the accomplishment of her end of controlling the commerce of the world, which, while they will require the most energetic effort on the part of our Government to oppose them, certainly cannot but be regarded by us with admiration and respect. We are not alone in our complaints of this aggressive policy on the part of Great Britain in all quarters of the world. She is grasping upon every sea every point that commands the passages through which commerce seeks its vent. After having but a few years ago taken possession of the town of Aden, she has quite recently again taken possession of the Island of Perim—a possession desirable to her solely for the purpose of controlling that communication with the East which seeks its vent across the Isthmus of Suez.

In defiance of the wishes of the civilized world, her Ministry have declared a determined and persevering opposition to the construction of a canal across the Isthmus of Suez, not because such a communication would not be advantageous to the common commercial intercourse of nations, but because the countries which border upon the Mediterranean, having easier access to the East than she could have from her position, she fears that her monopoly of eastern power may be disturbed. Scarcely had we taken possession of California when, in defiance of the most solemn obligations of treaty, she seized upon the Bay Islands, and there established a colony which she had solemnly promised she would never do in those waters. She has for a long series of years persevered in endeavoring to obtain from our Government an admission of her right of visitation—a right which it is obvious cannot be conceded to any nation, particularly to one possessed of the naval power of Great Britain, without carrying with it in her favor the supremacy of the seas.

I shall not enter into an argument on the question of this right of visitation. It is obvious to us all that it is practically equivalent to the right of search, that it can be conceded to no nation without being liable to such abuses as must necessarily render the nation exercising that power the mistress of the seas. It is a novel pretension. It is admitted by all writers upon international law to be a belligerent right, one to be exercised in time of war alone, and one which the commerce of the world has never yet submitted to in time of peace.

Now, sir, after all that has been said in the Senate upon this subject, I trust that we shall not adjourn without passing the resolutions offered by the Committee on Foreign Relations. I think that the declaration of the opinion of the Senate upon this subject will have a salutary effect—a salutary effect not only on the other side of the water, but on our own; for I must confess, Mr. President, that I think there has not been that energy in the prosecution of our rights against foreign nations, in the assertion of the interests of this country in connection with our relations with the people abroad, that we had a right to expect from the Executive from the tone of his inaugural message. I am well aware that the President of the United States has been almost exclusively occupied with matters of internal policy, sufficient of themselves to have absorbed the attention, the time, and the labor of a constitution almost superhuman. Still, sir, I think, that at the present time leisure will be afforded to the Executive for the assertion of our rights with some more energy than has been hitherto manifested, and with an energy which will be more acceptable to the people of the United States than the usual forms of diplomatic negotiation, by which hitherto our rights have been eluded and evaded by the Ministry of Great Britain.

I trust that this question will be brought to a close, that something definite will be done between the two countries, that this matter will not be left to drag its slow length in a negotiation of years. It is not to be supposed, in my judgment, that Great Britain will suddenly abandon a right which she has so long, so ardently and so earnestly pursued; but at the same time, I trust that there are to be no discussions, or negotiations on this subject beyond this: the information to Great Britain that these rights of ours are matters which cannot longer be submitted to discussion or negotiation, but we consider her pretense of the power under the law of nations to visit our ships as one that can under no circumstances be admitted by us, and that if she is unwilling to make a formal renunciation of it, she must at least consent that she never again exercise it toward us, without granting us previous notice of her intention so to exercise it; and the people and the Government of the United States will consider that notice as a notice to prepare for war.

Mr. CLINGMAN. There is one suggestion which I should like to bring to the notice of the Senate, and which may possibly account for these proceedings. The excuse given by the Senator from Ohio, and that given in the papers for these British movements, is that they are so anxious to stop the slave trade that they are examining our ships to ascertain whether they are not slavers. It is admitted that they are violating our rights in so doing; that they have no right, in fact, to set foot on our ships, but their motives are to stop



the slave trade, which is made a felony by our laws, and by the British laws. I think it quite probable that some proceedings which have occurred in a neighboring country, and which have been very much discussed here, may account for the late vigorous action of England. You will recollect, sir, that not long ago Commodore Paulding went into a foreign country and committed a direct, open violation of the sovereignty of its territory, seized some of our people there, and brought them away. It was not pretended that they had committed a felony against the United States, but it was alleged that they had committed a misdemeanor. It was admitted that he had gone in there improperly, at least, that he had violated law, and brought them away; but it was said his motives were very good. The President himself in condemning the act, made an argument to show that his motives were very good; and, if I recollect aright, the report of the Committee on Foreign Relations of the Senate made an argument in his defense, admitting that he had clearly violated the laws of the United States and the Constitution, that did not justify his doing any act of that sort, by invading a foreign territory, but saying that he had good motives. The committee said that the men whom he seized had, perhaps, been guilty of misdemeanor, at least they were charged with violating the laws of the United States, and that he had a moral right to take them away.

Now, sir, the British officers are entering on our ships. Why? Because they want to stop the slave trade, which is a felony. They admit that, by so doing, they violate our jurisdiction. Suppose you make this complaint: the British Parliament may say, "Here is one of your own officers, who, for much less excuse than we can give, has invaded a foreign territory, has violated its jurisdiction; and yet, so far from punishing him, your President actually commended him, and the Committee on Foreign Relations of the Senate commended his motives, and some of the Senators argued that he ought to have a medal: now, cannot we make a much stronger case?" This act of Paulding's was a naked, open, barefaced, impudent, violation of a foreign territory—as plain and palpable a violation of the laws and the Constitution of the United States as any man could possibly commit; and yet you had long arguments made in Congress in praise of his motives. If any complaint be made by our Government, I think the proper reply would be a reference to this act; and I hope a member of the British Parliament, at any rate, if they think proper to disavow these proceedings, will get up—for it would be a proper rebuke to us—and introduce a proposition to give a medal to the commander of the *Slyx*, stating that he has violated the territory of the United States in going on board American ships, but that his motives were very good; that his object was to prevent a felony, and put down a piracy, and therefore he ought to have a medal.

Why, sir, at the very time of the proceeding to which I have referred, I took occasion to state, and it must have occurred to everybody, that if such acts were to be justified or apologized for by our Government, the British might do what they pleased in Central America. It is true, I did not expect they would return the cup to our lips, but I did expect they would seize that country and say they were doing no more than we done. I think it is a very proper rebuke to the United States when we allow our own officers to invade foreign jurisdictions on such miserable pretexts, pretexts so utterly contemptible as is the allegation that there was any necessity for Paulding's going there. When that is done without rebuke, I think it is eminently becoming that foreign nations should avail themselves of a similar right, and go on board our vessels. They can give much better excuses for it. I hold, of course, as I believe every Senator does, that if they set foot upon our ships it is at their peril. They have a right to seize a ship that is a slave trader even if it has our flag up. They have no right, however, to set foot on our ships, and I am willing to go as far as any Senator to assert our right to be free from molestations on the high seas; but I hope that we shall have some consistency in these movements, and that while gentlemen justify violations of law that our people may commit, they will at any rate be prepared to make some excuse for others. I doubt extremely

whether anything that ever has been attempted by the British Government exceeds the act I have referred to.

I agree with the Senator from Louisiana, and I have maintained that opinion for a good while—I think everybody says it, but nothing has been done—that the United States ought to do something to maintain its respect abroad. I read, in one of the papers yesterday, a letter from the southern California coast, in which it is stated that our people there are suffering depredations from Mexico, our traders and others who go there, and that occasionally a British or French ship gets into the Gulf of California and gives some protection; and that our citizens rejoice to see one there. There has not been one of our naval vessels there for many years, according to the statement. The same thing is occurring the world over. Our people in foreign ports are habitually protected by the British or French vessels. It is said our Navy is too small. I, for one, am willing to enlarge it; and if the Secretary of the Navy says our present force cannot protect our people abroad, there is good reason for an increase. I intend to vote for the resolutions of the Senator from Virginia, but I think they fall far short of what we ought to do. I do not see, however, that the Senate alone can do anything, except make protests and declare opinions. I will go as far as it is possible to do under the circumstances.

Mr. DOOLITTLE. Mr. President, least of all did I expect that I should be drawn into any discussion growing out of our foreign relations, or with regard to the conduct of Commodore Paulding in arresting Walker upon the sand beach at Nicaragua; but I can hardly let the remarks of the honorable Senator from North Carolina pass without making some observations. I had hoped that the regular session would not come to a close until the whole question involved in the case of the arrest of Walker had been disposed of by the Government, and the Government of the United States had taken the responsibility of sanctioning the act which was done by Commodore Paulding.

Mr. President, when I am told by the honorable Senator from North Carolina that Commodore Paulding violated the Constitution and the laws of the United States in the arrest of General Walker, I ask what provision of the Constitution, what law of the United States, what law of nations, did he violate?

Mr. CLINGMAN. Does the Senator desire me to answer him now?

Mr. DOOLITTLE. The Senator may do so now, or when I shall have concluded.

Mr. CLINGMAN. He violated that clause of the Constitution which says that Congress shall have the power to make war, and the clause which says no powers shall be exercised except those which are granted; and the only grant on the subject is the war-making power, and that is granted to Congress. In the next place, he committed disobedience of orders, and violated the law in that respect. I need hardly argue that point, for I believe it is admitted by everybody. In the last place, he violated the laws of nations by invading a friendly Power.

Mr. DOOLITTLE. I shall not detain the Senate to go into a lengthy reply; but on that subject I join issue most distinctly with the honorable Senator from North Carolina; and I undertake to say that I can demonstrate to any court composed of impartial judges, that in no respect did Commodore Paulding violate the laws of nations, the laws of the United States, or the fair instructions which he received from the Department at Washington. By the law of the United States, passed in 1818, the President is authorized expressly to use the land and naval forces to prevent the carrying on of warlike expeditions from the shores of the United States against the shores of a neutral and a friendly Power. The statute expressly clothes the President with that authority; and when gentlemen stand up here, and say that the President had not the power to prevent the carrying on of Walker's expedition after it left the shores of the United States, they are arguing in the very face and eyes of the statute; and, so far as that point is concerned, the Committee on Foreign Relations sustained the view which the President took—that he had the right to arrest this expedition, and to prevent its being carried on against Nicaragua. The only question

at issue between the Administration and Commodore Paulding was simply this: not whether Commodore Paulding had a right to arrest General Walker within the jurisdiction of Nicaragua, within the harbor of San Juan, but whether he had the right to touch the sand beach in order to prevent the carrying on of this expedition against Nicaragua?

Sir, I undertake to say it was no violation of the law of nations. Nicaragua, long before the arrest was made, asked the Government of the United States to make that arrest. The Minister of Nicaragua asked the Government of the United States to prevent Walker from landing on the shores of Nicaragua and carrying on this expedition. The very day on which Commodore Paulding made the arrest, the consul of Nicaragua, in behalf of that Government, tendered its thanks to the United States Government and to Commodore Paulding, not for violating their territory, but for defending their territory from violation. More than a week before the President of the United States delivered his message to Congress on that subject, the Minister of Nicaragua returned the thanks of that Government to the Government of the United States for taking Walker from the sand beach at San Juan.

Sir, talk about violating the territory of a neutral and friendly Power! We never did it. Nicaragua invited us to do what Commodore Paulding did. She thanked us the very day he did it. She thanked us through her Minister, before the President of the United States ever sent in a message to Congress on the subject, because we had done it. We never invaded her territory with hostile purposes; and there is no such thing as a hostile invasion but with a hostile intent.

What, sir, was the language of General Jackson's administration on this subject? President Jackson ordered General Gaines, if it were necessary, to go to Nacogdoches, even into the territory of Mexico, for the purpose of preventing the invasion of Mexico by hostile Indians from the United States; and General Jackson laid down the doctrine, and it is true by every law of nations, and there is no law against it, that where it is necessary, and the invasion is not made with any hostile intent, but to prevent a hostile invasion on our part, it, so far from violating, is in accordance with the law of nations. That is the doctrine of General Jackson's administration, as laid down by Mr. Forsyth, his Secretary of State. And yet I hear men stand up in the Senate and undertake to say that we violated the law of nations in this case, when Nicaragua invited us to do the act, when she thanked us for doing it, when we did it with no hostile intent—did it with no other intent under heaven but to prevent our own hostile people from invading her territory, and murdering her citizens. Talk about it being a hostile invasion, a violation of her territory! Mr. President, it is preposterous on the face of it; and I tell the honorable Senator from North Carolina that the people of the United States will never sanction any such doctrine.

True, when Commodore Paulding, a gallant and veteran officer of the United States, who for forty years has borne the flag of his country, carried out fairly the instructions which he received to prevent Walker from landing and levying war on Nicaragua; when he, in good faith, made that arrest, such a clamor was raised against the Administration that they dared not face the responsibility of their own act. I know the Administration seemed to shrink from it. Instead of doing as Mr. Monroe's administration did when General Jackson invaded Florida and took Fort St. Marks against the remonstrance of the Spanish Governor; instead of backing up Paulding; instead of saying, as Monroe's administration did, that every dictate of common sense—the common sense which was written with adamant on the hearts of mankind—sustained his conduct, this Administration retreat from the responsibility, shrink from it, and suffer Commodore Paulding to be sued, and actions of trespass have been commenced against him in the city of New York and elsewhere, I am told. This man is to be prosecuted, and suffered to be ruined; and for what, sir? Simply for doing his duty in carrying out, in good faith, the command that was given him, to prevent General Walker, as he is called, from levying war on a friendly Power; because he passed one of the vessels in the harbor of San

Juan, and made the landing upon that sand beach when Nicaragua invited him to take these men away, and thanked him for doing it.

Mr. President, this is the act of all others which the Government has committed that has given me the most mortification. The Government, it seems to me, by a kind of pusillanimity, say they had a right to arrest him in the waters of San Juan; but if he happened to step his foot on the sand beach, Commodore Paulding must stand off, and look on and see him burn down the houses and butcher the people of Nicaragua. Sir, if Commodore Paulding had stood by, and had not commanded him to embark and leave the shores of Nicaragua; if he had looked on quietly, he would have been accessory to the deed, and the Government of the United States would have been accessory also.

Mr. President, I did not expect to be drawn into any discussion of this kind, and I do not desire to take up the time of the Senate; for I supposed we had met for other purposes—to attend to executive business. As to the question which is immediately pending, and which has given rise to this discussion about Commodore Paulding, I had not intended to take any part at all in its discussion. It so happened that I was not in the Senate for a few days during the time when this war fever seemed to attack the Senate, and, perhaps, my being ill at the time, laboring under a bilious attack, saved me from being attacked with this war fever; and I confess, for one, that I have not been attacked with it. I have no apprehensions of war. I do not believe there is to be any war between us and Great Britain on this question. I have never apprehended it from the beginning. I think the British Government will declare that its instructions have been disobeyed or exceeded by the persons having charge of its vessels in the Gulf of Mexico, and the whole difficulty will pass away. I had not intended to take any part in that discussion.

Mr. CLINGMAN. I do not propose to enter into an argument as to the Paulding case with the Senator from Wisconsin. I think it would be easy to show that Yrissari had no authority under the constitution of Nicaragua to authorize this invasion. It is sufficient for my purpose to say that the President of the United States and the Committee on Foreign Relations, to both of which I referred, have declared the act illegal. What I complained of was, that instead of taking some steps to censure or punish the man they alleged to be guilty of illegal acts, the Executive made an argument in his defense; and I said that the British Government could make a much stronger case, because piracy is a much higher and more heinous offense than the misdemeanor charged upon Walker, and all we could expect them to do would be, while they admit these acts to be illegal, to make an argument in favor of the motives of their officers and present them with medals. That I think is all the United States have a right to expect. It is the course that our Executive Administration seems so far to have taken.

Mr. MALLORY. Mr. President, I presume the object of introducing these resolutions of the Committee on Foreign Relations is, that some expression of the Senate may accompany the negotiations on this subject; otherwise, they would be entirely useless; but the introduction of the Paulding affair is irrelevant and can have no possible bearing on this point. If the object of the Committee on Foreign Relations be what I have stated, I will take the opportunity to say that I feel quite satisfied that the instructions under which these searches have been made were issued in 1846, and that they have never been modified or extended, but that the British officers, impelled by a desire for prize money, as a matter of course are executing these orders very zealously, and the great number of instances which have occurred about the same time have simply directed our attention to them. They have been going on for ten years past, and have not heretofore attracted much attention. They have been going on all over the globe, wherever the American flag has been, and British cruisers have chosen to intercept it.

I rise simply to say that this is no sudden impulse of the American people on this subject; but they have uniformly entertained the opinions announced in these resolutions. I hold in my hand a paper issued by the last Administration, which exhibits the opinion of the Secretary of State

under that Administration. You will recollect, Mr. President, that when the American vessel *El Dorado* was fired into by the Spanish frigate *Ferrolona*, it excited universal surprise throughout the country. We immediately assembled a large fleet in the Gulf of Mexico, as we have done now; and I will read an extract from the orders issued to the commanding officers of those vessels by the Secretary of the Navy:

"The President instructs me to say to you that if any officer in command of a ship-of-war be present when an outrage of the character heretofore mentioned is perpetrated on a vessel rightfully bearing our flag, he will promptly interpose, relieve the arrested American ship, prevent the exercise of the assumed right of visitation or search, and repel the interference by force."

In the paper issued by Mr. Marcy on that occasion, as Secretary of State, he said:

"In an interview between the undersigned and Mr. Cueto, a few days ago, the conduct of the commander of the Spanish frigate *Ferrolona*, in firing at the United States mail steamer *El Dorado*, and subjecting that vessel to visitation and search, was brought to the notice of her Catholic Majesty's minister.

"The act of the commander of the *Ferrolona*, as presented to this Government, if done by the order of Spain, or sanctioned by her, must be regarded as the assertion of a right to exercise a police over our commerce upon the ocean, which will be resisted at every hazard, by the Government of the United States.

"There is no question in regard to our international relations which has within a recent period been more fully discussed than that respecting the limits to the right of visitation and search. This is a belligerent right, and no nation which is not engaged in hostilities can have any pretense to exercise it upon the open sea. The established doctrine upon this subject is 'that the right of visitation and search of vessels, armed or unarmed, navigating the high seas in time of peace, does not belong to the public ships of any nation. This right is strictly a belligerent right, allowed by the general consent of nations in time of war, and limited to those occasions.'"

Further on, urging the same point, he said:

"After several Powers had declared the slave trade to be piracy, by legislative enactments or treaty stipulations, an attempt was made by Great Britain to extend the right of visitation, as contradistinguished from search, to vessels bearing the flag of the nations which had passed such laws, or entered into such treaties; but this endeavor was vigorously resisted, and may now be regarded as having been abandoned."

This paper has peculiar significance now, because it was not written with reference to any such occasion as is now before us; it was written entirely with reference to the firing into the *El Dorado*, Spain excusing that act by alleging that the *El Dorado* was within her own seas, within her own territorial jurisdiction, though ten miles from land:

"It is certain that the United States have solemnly protested against such an extension of the right of search, and stands pledged before the world to meet it with uncompromising resistance."

In the same communication—and what I shall now read has peculiar significance, because it shows the views heretofore urged by the British Government on this identical question—Mr. Marcy says:

"In 1839, the Haytian Government passed a law declaring the slave trade piracy, and therein provided that any vessel, whether Haytian or foreign, found in the act of slave trading, should be seized and brought in for adjudication and condemnation. In a communication of Lord Palmerston, whilst principal Secretary of Foreign Relations to her Britannic Majesty to the Haytian Government, in regard to that law, he uses the following language: 'Her Majesty's Government wish to draw the attention of the Haytian Government to a matter of form in this law, which may possibly give rise to embarrassments. The law enacts that all vessels, whether Haytian or foreign, which may be found in the act of slave trading, shall be seized and brought into a Haytian port. Now Hayti has, undoubtedly, a full right to make such an enactment about her own citizens and ships, but her Majesty's Government apprehend that Hayti has no right so to legislate for the ships and the subjects or citizens of other States; that in time of peace no ships belonging to one State have a right to search and detain ships sailing under the flag of and belonging to another State, without the permission of that State, which permission is generally signified by treaty; and if Haytian cruisers were to stop, search, and detain merchant vessels sailing under the flag of and belonging to another country, even though such vessels were engaged in the slave trade, the State to which such vessels belonged would have just grounds for demanding satisfaction and reparation from Hayti, unless such State had previously given to Hayti, by treaty, the right of search and detention.'"

"Lord Aberdeen, while occupying the same position, admitted, in a note to the American Minister at London, 'that to visit and search American vessels in time of peace, when that right of search is not granted by treaty, would be an infraction of public law and a violation of national dignity and independence.'"

This paper of Mr. Marcy, issued in 1855, and delivered to the Spanish Minister, is an exposition of the American doctrine upon this subject, and a quotation from the acknowledged doctrine of

Great Britain on the same subject. I presume there can be no clearer proposition advanced than this: that in the United States there is no discrepancy of opinion on this point. We may apply the words of Mr. Canning, who in his epigrammatic way said, that wherever the flag of Great Britain floats, there foreign dominion shall not come. This is the doctrine of that country in reference to their flag. We have the same undoubted right to follow our vessels bearing our flag on the high seas as we have to follow our citizens in our own territorial jurisdiction, and protect them wherever they are. We have not exercised this right. As the honorable Senator from North Carolina says, the private liberty of our citizens and the rights of our flag have been abused on foreign stations.

I have read this paper simply to show that Great Britain herself has interfered with the Haytian Government to put Hayti right on this subject; and declared, in the most emphatic manner, that Hayti might legislate for her own vessels, but must not undertake to visit and search vessels of any other nation that did not give her that right. Great Britain will not release this practice. It is idle to suppose that Great Britain intends to release it. These are old orders printed in her order books. When a British officer goes to sea, he is handed an order-book, and his whole regulations are there; and without another word from his superiors, he will execute them zealously. Great Britain may lay them aside for the time, and tell us that, in executing these orders, they have not the remotest idea of 'stopping our commerce on the high seas, or of creating a quarrel with us, or offending us, but they will, at the same time, say that if one flag is suffered to pass with impunity, without being verified, the slave trade will be carried on under that flag; and that, if we insist that our vessels shall be unmolested, we must see that our flag be not abused. That will be her answer; and it will be a just response; and we must be prepared to meet that contingency. We have declared the slave trade to be piracy; and the Government came to a most ridiculous and foolish decision when it did so; but when we have declared it to be piracy, and when we know that vessels are daily captured as slavers bearing the American flag, it is not just to ourselves, nor are we true to our own declarations, when we permit this state of things to go on without providing against it. When we demand that our flag shall be respected, we should be prepared to accompany that demand by a recognition of authority in ourselves to right our own flag, to see that it is not violated; and hence, on a recent occasion, I placed before the Senate the necessity of some small vessels, to enable us to fulfill our treaty stipulations.

Mr. SLIDELL. I wish to ask the Senator from Florida whether the document from which he read some extracts has ever been before the Senate in any form?

Mr. MALLORY. I took it from the files of the Senate.

Mr. SLIDELL. I think it ought to be printed.

Mr. DOUGLAS. The action of the Haytian Government, and the communications in regard to it, will be found in Wheaton's International Law.

Mr. SLIDELL. I think the whole of these papers ought to be printed.

Mr. MALLORY. They were communicated by the President in response to a call of the Senate.

Mr. SLIDELL. I move that the documents be printed.

Mr. DAVIS. I hope they will be printed. There is a letter in the same communication, even more pointed, in connection with the present condition of affairs than either of those which the Senator from Florida has read.

The PRESIDENT *pro tempore*. The motion to print will go to the Committee on Printing, under the rules.

Mr. SLIDELL. I hope by unanimous consent the motion will be considered at once, without being referred to the Committee on Printing.

The PRESIDENT *pro tempore*. The Chair hears no objection; and the order to print will be made.

Mr. ALLEN. The committee appointed to wait on the President of the United States have, according to the direction of the Senate, called



upon him, and informed him that the Senate were in session, and ready to receive any communication he might think proper to make. He said he had already sent in some nominations, which he supposed were not acted upon, but they had not been returned to him, and that he should make further nominations to the Senate; and that he wanted some further action upon the communication respecting the two judges in Washington Territory. I will give the rest of his answer in executive session.

Mr. J. B. HENRY, the Secretary of the President of the United States, appeared below the bar, and announced that he was directed to deliver to the Senate several messages, in writing, which were of an executive character.

Mr. DOUGLAS. I do not intend to go into the discussion of this question of the British outrages. I shall vote for the resolutions reported by the Committee on Foreign Relations, although, as is well known to the Senate, they are far short of coming up to what, in my opinion, the two Houses of Congress ought to have done in conferring power upon the President to resist and avenge insults to our flag; but I desire now to make an explanation on another matter, which connects itself somewhat with the subject now before us, and which affects me individually and my constituents. I find in the *Intelligencer* and many other papers, and commented upon extensively throughout the country, within the past week, this telegraphic dispatch:

*Illinois Administration State Convention.*

"SPRINGFIELD, Illinois, June 9.—The State convention of the Administration Democracy assembled here to-day. Two hundred and sixty-three delegates, representing forty-eight counties, were in attendance. John Dougherty was nominated State treasurer, and ex-Governor Reynolds superintendent of public instruction. Resolutions were adopted affirming adherence to the Cincinnati platform: reaffirming the principle of non-intervention in the Territories; opposing the concentration of power in the hands of the central Government; deprecating slavery agitation; condemning Senator Douglas for his opposition to the Administration; denouncing the principles of the Republican party as tending to the dissolution of the Union, and denouncing the late outrages by the British cruisers on American vessels in the Gulf of Mexico and elsewhere."

In other papers I find this treated as a convention of the Democracy of Illinois, and represented as having condemned my course this winter upon questions of public policy. I desire to correct this impression. It was not a convention called by any authorized authority of the Democratic party of that State. It was not called by the Democratic central committee, the organ of the party for that purpose; nor by any portion of them; nor by the assent of any one of them. It has no more authority to assume to be a convention of the Democracy of Illinois than any other equal number of citizens of the State who might get together irregularly, and in violation of the usages of the party. I will go further, and say that the two persons nominated for State officers are not, and have not been, recognized in Illinois as uniformly consistent Democrats. Both of them belied the Democratic party and joined the enemy, on the occasion of the passage of the Nebraska bill. Both are noted for their violent, persecuting opposition to me and to the Democracy of Illinois, in consequence of the passage of the Nebraska bill.

But, sir, the Democracy of Illinois did assemble in State convention on the 21st of April last, and nominated a State ticket. That convention was regularly called by the Democratic State central committee. The convention was held at the appropriate place, at the usual time. All its proceedings were regular. There was not a single defect, or error, or irregularity, in the origin of the convention or in its assembling, either in general convention or in any one of the county conventions that nominated the delegates. That State convention represented ninety-eight of the one hundred and one counties in the State, in every one of which the county convention was called regularly, by the proper county committee; the proceedings were conducted harmoniously and decorously; and in every one of those county conventions resolutions were passed indorsing and approving the course which I have pursued in the Senate this winter. The fact is, therefore, that, instead of being denounced by the Democracy of Illinois, I have been indorsed by every county in the State, and in most of them unanimously. In four or five counties there were a few dissenting voices, but very few. When the delegates from

those ninety-eight counties assembled at Springfield, at the appointed time, they passed a series of resolutions, to which, on another occasion, I called the attention of the Senate, and which I then indorsed, and now indorse. Those resolutions were adopted unanimously. They affirm their undying attachment to the principles and organization of the Democratic party of the State and Union. They declare "that they are unalterably attached to, and will maintain inviolate, the principles declared by the national convention at Cincinnati, in June, 1856."

I will read the fourth resolution, and send the whole series to the reporter to be inserted in his report of my remarks:

"4. *Resolved*, That the platform of principles established by the national Democratic convention at Cincinnati is the only authoritative exposition of Democratic doctrine, and they deny the right of any power on earth, except a like body, to change or interpolate that platform, or to prescribe new and different tests; that they will neither do it themselves, nor permit it to be done by others, but will recognize all men who stand by and uphold Democratic principles."

Thus it will be seen that while they declare that, in their opinion, the Lecompton constitution ought to have been submitted to the people, and that no State should be forced into the Union with a constitution not approved by, and in opposition to, the wishes of the people; yet they will proscribe no man in consequence of a difference of opinion on this point, but will recognize all men as Democrats who abide by regular nominations and adhere to the organization of the party, and uphold Democratic principles. While they were firm in their conviction that their construction of the Democratic platform was correct, they declare unequivocally that they will proscribe no Democrat, and submit to no proscription, because of a difference of opinion on the Lecompton question. The whole series of resolutions is as follows:

"Colonel McClelland, from the committee to prepare resolutions for the consideration of the convention, made the following report: which was read, and, on motion, each resolution was separately read and unanimously adopted:

"1. *Resolved*, That the Democratic party of the State of Illinois, through their delegates in general convention assembled, do reassert and declare the principles avowed by them as when, on former occasions, they have presented their candidates for popular suffrage.

"2. *Resolved*, That they are unalterably attached to, and will maintain inviolate, the principles declared by the national convention at Cincinnati in June, 1856.

"3. *Resolved*, That they avow, with renewed energy, their devotion to the Federal Union of the United States, their earnest desire to avert sectional strife, their determination to maintain the sovereignty of the States, and to protect every State, and the people thereof, in all their constitutional rights.

"4. *Resolved*, That the platform of principles established by the national Democratic convention at Cincinnati is the only authoritative exposition of Democratic doctrine, and they deny the right of any power on earth, except a like body, to change or interpolate that platform, or to prescribe new or different tests; that they will neither do it themselves nor permit it to be done by others, but will recognize all men as Democrats who stand by and uphold Democratic principles.

"5. *Resolved*, That in the organization of States the people have a right to decide, at the polls, upon the character of their fundamental law, and that the experience of the past year has conclusively demonstrated the wisdom and propriety of the principle, that the fundamental law under which the Territory seeks admission into the Union should be submitted to the people of such Territory, for their ratification or rejection, at a fair election to be held for that purpose; and that, before such Territory is admitted as a State, such fundamental law should receive a majority of the legal votes cast at such election; and they deny the right, and condemn the attempt, of any convention, called for the purpose of framing a constitution, to impose the instrument formed by them upon the people against their known will.

"6. *Resolved*, That a fair application of these principles requires that the Lecompton constitution should be submitted to a direct vote of the actual inhabitants of Kansas, so that they may vote for or against that instrument, before Kansas shall be declared one of the States of this Union; and until it shall be ratified by the people of Kansas, at a fair election held for that purpose, the Illinois Democracy are unalterably opposed to the admission of Kansas under that constitution.

"7. *Resolved*, That we heartily approve and sustain the manly, firm, patriotic, and Democratic position of S. A. Douglas, Isaac N. Morris, Thomas L. Harris, Aaron Shaw, Robert Smith, and Samuel S. Marshall, the Democratic delegation of Illinois in Congress, upon the question of the admission of Kansas under the Lecompton constitution; and that, by their firm and uncompromising devotion to Democratic principles, and to the cause of justice, right, truth, and the people, they have deserved our admiration, increased, if possible, our confidence in their integrity and patriotism, and merited our warm approbation, our sincere and hearty thanks, and shall receive our earnest support.

"8. *Resolved*, That in all things wherein the national administration sustain and carry out the principles of the Democratic party as expressed in the Cincinnati platform, and affirmed in these resolutions, it is entitled to, and will receive, our hearty support."

These were the resolutions adopted unanimously by the regular Democratic State convention, containing representatives from ninety-eight counties, embodying more of the distinguished and prominent men of the State than were ever assembled together before on any one occasion—men eminent for their ability, for their high character, for their stern, unyielding Democracy, and who never wavered in the performance of a patriotic duty. These were the men who assembled at Springfield, and adopted these resolutions unanimously.

What well-founded objection can any honest Democrat find to these resolutions, or to the proceedings of the convention which adopted them? What excuse can be assigned for bolting the nominations made by this convention, and dividing the Democratic party, in order to transfer the whole power of the State into the hands of the Republican party? No man pretends that the convention was not regularly called, or that the delegates were not fairly elected, or that its proceedings do not faithfully represent the feelings and sentiments of the Democracy of the State. How comes it, then, that another convention, composed of bolters and disorganizers, has been held for the purpose of dividing and defeating the Democratic party, and thereby securing the election of Republicans, in the place of the regular Democratic nominees, for State officers, for the Legislature, for Congress, and for United States Senator? By whom and by what means has this disorganizing movement been devised and attempted to be executed? I regret to say that it has been done under the auspices of a man who holds an appointment under the Federal Government, and who pretends that he is carrying out the policy and wishes of the Administration in his efforts to divide and defeat the Democratic party. Being the special agent of the Post Office Department, and having the general superintendence of all the mails, postmasters, and route agents in the State, and a free pass over all the railroads, he has prostituted the trust confided in him, by threatening all the postmasters and route agents, and officeholders of every description, with immediate removal from office if they did not bolt the regular Democratic nominations and join in the disorganizing movement to elect the Republican ticket.

By this system of intimidation towards all persons in office, and by liberal promises to all who desired office, this special agent was enabled to induce a few persons to bolt and withdraw from the county conventions in five or six counties, after they had been outvoted by an overwhelming majority, and to appoint another set of delegates to a bolters' convention, to assemble at Springfield on the same day of the regular convention. Besides these irregular bolting delegates from five or six counties, a few postmasters were induced to attend from other counties where they could not find sympathizers enough to get up a meeting; and, in this manner, they were able to assemble thirty-seven persons in all, claiming to represent some twenty odd-counties out of one hundred and one counties in the State. I repeat, that they were not able to secure a regular delegation from any one county in the State, having been voted down by immense majorities in every county where they made the attempt. I have now in my possession several letters, which found their way into the newspapers, written by the postmaster at Chicago to other postmasters in the State, urging them to be appointed delegates, if possible, and, if they failed, to go to the bolters' convention on their own account, without a constituency, with a distinct intimation that if they did not do so they would lose their offices. In this mode, and by such means, thirty-seven bolters were assembled in one hall of the State-house, while the regular Democratic State convention was in session in the other hall of the same building.

That small squad of bolters adjourned from the 21st of April until the 9th day of this month, when they assembled again. A paper which I have from the capital of the State, says that this time they had delegates from fifteen or twenty counties, and numbered a little over a hundred persons in all, nearly one half of whom were from the city of Chicago. The telegraphic dispatch to which I have referred states that they had delegates from forty-eight counties. The discrepancy is accounted for in this way: in fifteen or twenty

counties there were small meetings held, which appointed delegates; and happening to find men in the city from some thirty other counties, they put down their names as delegates from those counties, though they had no constituency, and, in a majority of these instances, the persons did not go into the convention. It is this convention of bolters (whose only object is to defeat the regular nominations of the Democratic party of the State) who have assembled together and denounced me. Sir, I have been in the habit of being denounced in Illinois for twenty-five years by bolters and deserters from the Democratic party; never have I been denounced or censured by any regular Democratic county or State convention in Illinois. I have always sustained the regular organization and nominations of the party; and hence I have incurred the displeasure and hostility of all disorganizers in the party, and all bolters and renegades from it. It is natural, therefore, that such men as Dr. Charles Leib and his confederates, should form a secret alliance with the leaders of the Republican party to defeat me and all others who support the regular organization and nominees of the Democratic party in the State. His antecedents fully justify the supposition that Dr. Leib would engage in such a conspiracy, and use all the means in his power to make it successful, even by prostituting the trust which the Administration had confided to him as a special mail agent, to divide and destroy that great party which elevated Mr. Buchanan to the Presidency. A portion of the history of this man Leib—sufficient at least to show how much, or rather how little, confidence should be placed in his professions of attachment to the Democratic party while acting in concert with, and for the benefit of, the Republican leaders—is recorded in the official reports of the Senate, and now on our files, from which I will read a paragraph or two.

We all recollect the representations of Governor Denver in Kansas last winter in regard to the existence of a secret military organization in that Territory, which he calls the "Danite Society," in allusion to a similar organization among the Mormons. We have all seen the exposures of Redpath, the confederate of Lane and Leib, in Kansas, and remember the frightful accounts which he gives of the Danites in Kansas. The existence and character of such an organization are not brought to light now for the first time.

It will be recollected that the Committee on Territories, in their report of the 12th of March, 1856, when condemning the revolutionary proceedings by which the Topeka constitution was got up, presented an *exposé* of those revolutionary measures, and brought to light, amongst other things, a small pamphlet containing the ritual of the secret military organization, commonly called the "Danite Society." The committee then had, and now have, on their files, an original copy of the ritual of that Danite or secret military organization. It was obtained under these circumstances: in one of the fights there between the pro-slavery party and the Free-Soil party, a man by the name of George Warren was taken prisoner. He took this little pamphlet out of his pocket, put it into his mouth, and attempted to chew it and swallow it. He was caught by the throat, and made to spit it out. The document was brought here to the Senate with the tooth-prints upon it; and from it this report was made. Here is the list of the officers of that military organization: the officers of the Grand Encampment are—Grand General, Rev. G. W. Hutchinson, Lawrence, Kansas Territory; Grand Vice General, C. K. Holliday, Topeka, Kansas Territory; Grand Quartermaster, J. K. Goodwin, Lawrence, Kansas Territory; Grand Paymaster, Charles Leib, M. D., Leavenworth City, Kansas Territory.

Here you find this same Charles Leib, who is now the agent of the Post Office Department for the State of Illinois, the man who has got up this bogus convention against the Democracy, was one of the chief officers of Jim Lane's Danite society in Kansas, and was so reported by a committee of this body in 1856. He has the reputation of having before fled from the Mormons, when they got into trouble, to join Jim Lane in Kansas. He then fled from Kansas, and took shelter in Illinois, and is now getting up this movement to break down the Democratic party. I will show you the character of this Danite so-

ciety. Here is the oath that Mr. Leib took, in order to become a member of it:

*"Obligation."*

"I, ———, in the most solemn manner, here, in the presence of Heaven and these witnesses, bind myself that I will never reveal, nor cause to be revealed, either by word, look, or sign, by writing, printing, engraving, painting, or in any manner whatsoever, anything pertaining to this institution, save to persons duly qualified to receive the same. I will never reveal the nature of the organization, the place of meeting, the fact that any person is a member of the same, or even the existence of the organization, except to persons legally qualified to receive the same. Should I at any time withdraw, or be suspended or expelled from this organization, I will keep this obligation to the end of life. If any books, papers, or moneys, belonging to this organization, be intrusted to my care or keeping, I will faithfully and completely deliver up the same to my successor in office, or any one legally authorized to receive them. I will never knowingly propose a person for membership in this order who is not in favor of making Kansas a free State, and whom I feel satisfied will exert his entire influence to bring about this result. I will support, maintain, and abide by any honorable movement made by the organization to secure this great end which will not conflict with the laws of the country and the Constitution of the United States. I will unflinchingly vote for, and support, the candidates nominated by this organization, in preference to any and all others.

"To all of this obligation I do most solemnly promise and affirm, binding myself under the penalty of being expelled from this organization, of having my name published to the several territorial encampments as a perjurer before Heaven and a traitor to my country, of passing through life scorned and reviled by man, frowned on by devils, forsaken by angels, and abandoned by God."

The man who took that horrid oath is now representing the Post Office Department in Illinois, and going to each postmaster, and saying to him, "If you do not bolt the regular Democratic nomination—if you do not join in to help elect a Republican over Douglas, you shall be removed from office, and I am authorized to say so." He goes to each man who wants an office, and makes the same threat and promises. He has one or two associates with him engaged in the same business under his direction, who travel free upon the cars and public conveyances, who, professing to speak in the name and by the authority of the Administration, avow that their object is to defeat the regular Democratic nominees in Illinois, and knowing, too, that there is no hope or possibility of defeating them, except by the election of the Republican nominees. Why should not this man be acting in concert with Republicans? His oath of allegiance to Jim Lane as a Danite requires him to help to destroy and break down the Democratic party, under the penalty of being "a perjurer before Heaven, and a traitor to his country, and of passing through life scorned and reviled by man, frowned on by devils, forsaken by angels, and abandoned by God." He is now doing in Illinois what he bound himself, by monstrous oaths, to do before he left Kansas.

Mr. BIGLER. I have no desire to interrupt the Senator, nor shall I have any participation in this debate. It was the last thing that could occur to any man's imagination that we should have a debate of this kind. What I desire to say—and this much I must say in justice to Dr. Leib—is, simply, that I heard this allegation against him; I called his attention to it, personally, and I will give his own testimony for what it is worth.

Mr. DOUGLAS. Let us have it.

Mr. BIGLER. He solemnly denies that he ever belonged to any such association, or ever had any participation with it. He declares that the use of his name in that connection was without authority and was an abuse of it; that he was not in Kansas at the date of this organization. That is his declaration to me.

Mr. DOUGLAS. That compels me to make a statement to the contrary, and then the Senate and the country may judge. The first time I ever saw Dr. Leib was when I went home, in September, 1856, to take the stump for Mr. Buchanan, in Illinois. I met many distinguished men, some of whom are now present, and traveled with them to Tippecanoe battle-ground, where I made a speech on the 3d of September, I think. On the next day I made a speech at Joliet, Illinois, and took the cars about ten o'clock at night to go to Morris, where I was to speak on the succeeding day. When I got into the cars I found a large number of persons, perhaps one hundred or more, from Chicago, who were going down to attend the great meeting at Morris. Among them was Mr. John Van Buren, of New York. While I was conversing with Mr. Van Buren, a man whom I subsequently learned to be Dr. Charles Leib,

approached, and Mr. Van Buren introduced me to Mr. Leib, as editor of the Tribune, mistaking the Tribune for a small campaign paper called the Bugle. I understood him to say Mr. Lee. I spoke to him politely, but formally, and passed by. The Tribune was a paper that was opposing me very violently, and its editors, of course, would not have much sympathy with me in the business in which I was then engaged. I treated him politely, but had no conversation with him. In a few minutes he came back, and expressed the hope that I would have no hard feelings against him about that Kansas matter. I asked him to what he alluded, and he said he referred to his connection with the secret military organization in Kansas, as exposed by me in the report of the Committee on Territories. I told him I did not recollect any man by the name of Lee connected with that "Danite society." He said his name was Leib, and that he was the grand paymaster of that association, and he supposed I had treated him coolly because of that fact. He has never pretended to disguise or deny the fact of his connection with the notorious James H. Lane and the Danite association. It is a fact as well known and as notorious as any other in the history of the Kansas disturbances. Only a few days ago, I received a letter from an editor of a newspaper in Kansas, a person unknown to me personally, who proposed to give a history of the outrages perpetrated by Leib and his Danite confederates in Kansas. The writer had observed the course pursued by Leib and his confederates in Illinois, to divide and destroy the Democratic party, and thought it his duty to expose him, under the impression that I was not aware of the facts.

If Leib now denies his connection with Lane and the Danite society in Kansas, as exposed in the report of the territorial committee, in March, 1856, it is only an additional evidence of the depravity of his character. As well might the Senator from Pennsylvania [Mr. BIGLER] deny his own identity, or his own record in the Legislature of his State. Leib confessed the fact to me under the circumstances I have stated, and is equally well known to others, and can be proven by hundreds of witnesses. His sympathy with the Republicans and his oath as a Danite, would naturally stimulate him to do everything in his power to destroy the Democratic party and build up the Republicans.

I repeat, sir, that this man Leib is in the habit of threatening all the office-holders in the State that he is authorized to have every one of them removed who does not bolt the regular Democratic party, and oppose its nominations. I will say, furthermore, that I do not believe he has any such authority. I do not believe the Administration have authorized any man to give such pledges in their name in the State of Illinois; but what difference does that make if he does so every day, and makes all the office-seekers and office-holders believe it? The result is the same as if he had the authority to make the promise. I tell you, now, the Republican leaders have no hope of success in the ensuing election—no hope of destroying the Democracy of Illinois, except by their alliance, through Leib, with the office-holders. All their prospects and hopes depend upon that alliance. If they can succeed, of course the office-holders will be well provided for. If Illinois be taken from the Democratic party and annexed to the Republican column, the office-holders will have the sole credit, and, of course, will be well rewarded for the great services they will have rendered the Republicans. I received a newspaper to-day from the capital of Illinois, edited by a worthy and honorable gentleman, which, speaking of the proceedings of this Danite convention, says:

"Many of those who participated in the proceedings did so under protest, and will repudiate the action of the convention, and vote against its nominations. The speakers were Dougherty, Bonney, Carpenter, Fitch, and others, and they all took the position that it was necessary to nominate a ticket in order to defeat the Democratic party of the State, not one of them pretending that a ticket nominated by them could be elected, or accomplish any better purpose than to give the State to the Black Republicans, which they boldly proclaimed would be far preferable to the success of the regular nominations of the party. This, to say the least, was creditable to their sincerity of purpose, corresponding as it did with their previous public councils, and with their well-known designs."

The object, therefore, is to divide and destroy the Democratic party by aiding the Republicans



# THE CONGRESSIONAL GLOBE.

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to elect their ticket. It is avowed, and hence you find that every Republican paper in the State sympathizes with them against me. One will make charges and the other support them. There is a regular alliance in order to abolish the State by breaking down the Democratic party, and putting the Republican party in power. They may have got some good Democrats into the movement, men who have been deceived by false representations, and who hold office or desire places, and have been made to believe that hostility to the Democratic party is the only sure passport to the favor of the Federal Administration. That a large majority of those who have countenanced this movement have been deceived by Leib, Grund, Cook, Carpenter, and their confederates, I have no doubt, and that they will soon discover the fraud that has been practiced on them, and return to the support of the Democratic party and its nominees.

Sir, when you look to the principles stated in the platform of the regular Democratic convention, what one is there to which any Democrat can object? They affirm the Cincinnati platform, they affirm the Kansas-Nebraska bill, they affirm the great principle of self-government, that the people of each State and Territory have a right to decide for themselves what institutions they will have. They affirm that the application of these principles required the Lecompton constitution to be submitted to a vote of the people of Kansas, and yet they make no test with any Democrat on that point and submit to none for themselves, recognizing all as Democrats who support Democratic principles. Then what pretext is there for this bolting convention of Danites, unless it is to make a test on every man who believed it was not right to force a constitution on a people against their will? If that test be made, where would be your Democratic party in Pennsylvania, in Ohio, in Indiana, in New Jersey, in California, or in any other State?

Mr. BRODERICK. Will the Senator from Illinois allow me to interrupt him?

Mr. DOUGLAS. Certainly.

Mr. BRODERICK. Did I understand him aright, a few moments since, as stating that he believed the Administration had not encouraged Leib in endeavoring to destroy the Democratic organization in Illinois?

Mr. DOUGLAS. I said I did not believe they had given him or his confederates any authority to speak or act for them in matters of appointment or removal of officers. I do not believe, and cannot believe, that Leib, Cook, or their confederates, have any authority from the President, or any member of his Cabinet, to threaten honest Democrats with removal from office in the event they will not abandon their principles and betray their party, or to promise offices to others on condition that they will perform such an act of perfidy. The meanness, yea, the infamy, of the act is too monstrous to admit of belief. Yet it is undeniable that these things are being done daily in the name, and professedly by the authority, of the Administration; and the effect on the public mind will be precisely the same as if done by authority, unless promptly disavowed and rebuked by removing the treacherous agents from office. A refusal to disavow the authority, after a full knowledge of the facts shall have been brought home to the Administration, should, of course, be regarded and treated as an approval and indorsement of the act as having been done by authority.

Mr. BRODERICK. I am fully answered, sir. I am very much delighted with your *exposé*, and I merely wished to know whether you intended to go with these gentlemen.

Mr. DOUGLAS. I intend to denounce this treason to the Democratic party; this system of bolting regular Democratic nominations; this coalition of office-holders with the enemies of Democracy. I intend to denounce it in every part of Illinois, and I mean to hold all men responsible for it who, by their action, become justly responsible. I now point out the fact that a conspiracy against the unity and integrity of the Democratic

party exists, and is being executed by a portion of the Federal office-holders in Illinois, who profess to be acting under the sanction of the Administration, but who, in my opinion, are acting under the direction of a small squad of selfish and unscrupulous politicians here who care less for the present than the next Administration. I am as confident that the Democracy of the whole Union will visit the conspirators with condemnation when the facts are fully understood, as I am now assured that the movement itself is disapproved and condemned by a large majority of the Democrats in both Houses of Congress. All good Democrats—all fair-minded men of every party—will unite in denouncing such an unscrupulous alliance between the leaders of the Republican party and that portion of the office-holders who receive orders from the Danite chief. What is the issue now pending in Illinois? What is the inducement to the great struggle for which the Republican leaders and their allies are now preparing? The motive cannot be disguised, nor, indeed, is there much effort to conceal it. The object of this combination is to strike down and crush out the Democratic delegation in the two Houses of Congress, and the Democratic party in Illinois, which has unanimously indorsed their course in State convention, for having acted fully up to their conscientious convictions in carrying out in good faith the great principles of self-government in its application to Kansas. This is the extent of our offending. For this offense we are to be pursued and hunted down by an unscrupulous coalition. The Republican leaders, with all the machinery of their party organization in motion, are fighting us with more fierceness, and, I may add, with more ferocity, than they ever did on any former occasion. They go into the battle with more energy and confidence, relying for success solely upon the aid which may be rendered them by the bolting office-holders in dividing the Democratic party.

It is natural that the Republican leaders should feel great anxiety to humble and defeat the Democracy of Illinois. They are *resistive* under the reflection that Illinois is the only northern State which never struck her flag to the enemies of the Democracy at a presidential election. While every other northern State has at some time, under some momentary panic or fanatical excitement, struck her flag and surrendered to the enemy, Illinois never! Pennsylvania has, on more than one occasion, abandoned the Democratic party, and secured the election of an Opposition President. New York has done the same thing frequently; Ohio often; Indiana several times; and so with each State in turn, leaving Illinois standing bravely alone, a solitary exception among her northern sisters. Now it is proposed, in view of these facts, to humble that gallant State, and make her trail her glorious old flag in the dust, and strike her ever victorious colors to an allied army composed of the Republican organization and the bolting office-holders under a Democratic Administration?

The Republican leaders justify the part which they perform in this unnatural coalition upon the ground that they are only employing these bolting office-holders to fight their battles the same as the British Government employed the Hessians to fight our revolutionary fathers, when they were struggling to establish and maintain the great principle of self-government, which we now insist should be extended to all the Territories in the same manner as they applied it to the Colonies. The Republicans do not conceal their purpose of retaining exclusive possession of the field, and appropriating to themselves the greater share of the spoils of war and fruits of victory, in the event they shall be so fortunate as to win the battle solely through the agency of their allies in effecting a breach in the Democratic ranks. The Republican leaders reason in this way: that if, by acting in concert with the bolting office-holders, they can secure a Republican State ticket, a Republican Legislature, a Republican United States Senator, and a majority of Republicans in the

next Congress, they will be amply compensated for the sacrifice of principle and honor involved in a coalition with professed Lecomptonites to put down Democrats whom they acknowledge to have been right on that issue, and at the same time using that very issue as the only means of accomplishing their defeat. Thus the proposition stands confessed that a combined effort is to be made to divide the Democratic party and defeat the nominees, for the simple reason that we would not consent to force a constitution on an unwilling people, nor drag them into the Union against their consent with a constitution which they had rejected by ten thousand majority. Our firm and unyielding adherence to this position forms the basis for this coalition between the bolting office-holders and the Republican leaders. If this is to be the issue—if the great principle of self-government upon which all our institutions rest, the right of the people to form the constitution under which they are to live, and ratify or reject the same at a fair election, is to be the issue, my position is taken, and I am ready to maintain it. I resisted, with all my strength and energy, the attempt to force the people of Kansas into the Union with a constitution known to be repugnant to their wishes, without first giving them an opportunity to reject; and I rejoice to say that we resisted it successfully, until the attempt was abandoned and the question of admission was referred back to the people of Kansas, to be decided by them at the polls. Although the struggle was long, exciting, and exhausting, it resulted in the abandonment of the attempt to force the Lecompton constitution on the people of Kansas, and in that abandonment was a clear recognition of the principle that the assent of the people must be first had and obtained before any instrument can rightfully become their fundamental law.

The question of admission was remanded to the people of Kansas, to be decided by and for themselves at an election to be held, in pursuance of law, for that purpose; thus again recognizing the principle for which I had contended during the whole controversy, that the people had a right to decide for themselves the question of admission under the constitution. When I saw in the bill the recognition of the principle, I deeply regretted that the provisions of the bill and the form of submission were not such as I could sanction with my vote. I expressed this regret at the time, and indicated two amendments, which, if they could have been adopted, would have enabled me to vote for the bill. But when the bill became a law the whole question was remanded to Kansas, to be decided at an election which has been fixed for the first Monday in August. Whichever way the people of Kansas may decide the question at that election will be final and conclusive. If they reject the proposition submitted by Congress, the Lecompton constitution is dead, and there is an end of the controversy. If, on the contrary, they accept the "proposition," Kansas, from that moment, becomes a State of the Union, and thus the controversy terminates. Whether they shall accept or reject the proposition is a question for the people of Kansas to decide for themselves, and with which neither Congress nor the people of the several States, nor any person, official or otherwise, outside of that Territory, has any right to interfere. Hence, the Lecompton controversy is at an end; for all men, of all parties, must be content with and abide by whatever decision the people of Kansas may make. It is true that the same question may arise on the application of some other Territory for admission into the Union. I am prepared now to give notice that whenever that question may arise, I shall be found maintaining and vindicating the same principle which I have insisted so strenuously should be applied to Kansas. I rejoice, however, in the assurance that hereafter we are to have no diversity of opinion, at least in the Democratic party, in regard to the wisdom and propriety of applying this great principle of popular sovereignty to all future cases as they may arise. On this question I shall be found sustaining, with all my energy,

the recommendation of President Buchanan in his annual message, that the wise example in the Minnesota case, where Congress passed an enabling act containing a clause requiring the constitution to be submitted to the people, should be invariably followed, and never departed from, in any future case. I think this a wise recommendation on the part of President Buchanan, and I take pleasure in giving the assurance that he will, at all times, find me ready to sustain him in his patriotic efforts to carry that recommendation into practical effect, and thus prevent the possibility of another Lecompton controversy ever arising.

Under these circumstances, the question naturally arises, what controverted principle is there left for Democrats to differ and divide about?

In the first place, we all agree, not only Democrats, but men of all parties, that whatever decision the people of Kansas may make at the election on the first Monday in August must be final and conclusive.

Now, if we can agree, as I have always avowed my willingness to do, to sustain President Buchanan's recommendation, that in all future cases the constitution shall be submitted to the people, as was required in the Minnesota case, all matters of dispute and controversy will be at an end, and our territorial policy will be firmly placed on a wise and just basis.

Under this view of the subject I repeat the question, for what purpose is this organization of bolters, under the command of the Danite chief, gotten up, and separate tickets formed with the view of dividing and defeating the Democratic party? What patriotic purpose is to be accomplished—what patriotic sentiment is to be gratified by it? If the example of making tests on past issues and bolting regular nominations is to be set and sanctioned in Illinois, is there not danger that it may be followed in other States—that it may extend into Indiana, Ohio, Pennsylvania, New Jersey, and, indeed, every State in the Union? It should be remembered that proscription generates proscription. The Illinois Democracy have declared, by a unanimous vote, in their State convention, that they will make no new tests and submit to none—that they will proscribe no Democrat, and submit to no proscription of Democrats, on account of a difference of opinion on the Lecompton question; but will recognize all men as Democrats who support the principles of the party, as laid down in the Cincinnati platform, and sustain the organization and nominees of the party fairly and regularly made.

This subject should commend itself to the earnest consideration of the Democracy of the whole Union. I wish them to consider well the facts I have stated, and then let their judgment be heard in tones which will be heard throughout the Republic, whether a coalition between the leaders of the Republican party and a lot of bolting office-holders, for the purpose of dividing and defeating the Democratic party, is consistent with Democratic policy, duty, and usage.

I repeat that the only hope which animates the leaders of the Republicans in Illinois to expect success, springs from this unholy coalition with the bolting Democrats; and if the Democracy shall be defeated in that State, it will result solely from this cause.

If such a result shall occur, the responsibility must rest on those who advise, encourage, and sanction this policy of bolting regular Democratic nominations.

Mr. TRUMBULL. Mr. President, I have no disposition to interfere at all between the different factions of the so-called Democratic party. For myself, I do not recognize either of those factions of which my colleague spoke, as representing the true Democracy of Illinois. I should not have risen to say a word except for one remark which fell from my colleague, and which he repeated several times in a different form; and that was, that the Free-Soil party in Illinois, as he calls it—I suppose he means the Republican party—

Mr. DOUGLAS. Yes; the Republican party.

Mr. TRUMBULL. That the Republican, or Free-Soil party in Illinois had no hope of success, except by an alliance with Leib & Co. If my colleague is laboring under any such misapprehension as that, I desire to disabuse his mind, as well as all others who may hear me. The Republican party of Illinois intend to beat both the Leib party and the party which my colleague calls the

Democratic party, together or separately. At the last election, we elected every State officer, when the opposite side were all united, and this man Leib, this abominable Danite, was in full communion. He was then traversing the State, assisting those acting with my colleague, and we beat the whole of them. We elected Governor Bissell, and every Republican candidate for a State office. It is true that by a small plurality, the electoral vote of Illinois was cast for Mr. Buchanan, but there was more than twenty-eight thousand majority in the State against him.

I only rose to correct the impression as to any alliance between the Republican party in Illinois and this man Leib, or those with whom he associates. The Republican party will pursue the even tenor of its way, opposing the Lecompton constitution, and all other constitutions like it, and will be happy to unite with my colleague, and to have his assistance in doing so. We have given him, upon this floor, all the assistance we could. We will help in Illinois to put down all such measures. I rose merely to correct a wrong impression which might be drawn from what my colleague said in regard to this man Leib. He is no man of ours, and I mean to enter into no defense of him. He has never acted with the Republican party, but has always been an active man against it, so far as I have known anything about him, and I heard of him before I ever saw him. Why, sir, he is one of the clerks of the present House of Representatives of Illinois, and the friends of my colleague elected him to that position; he certainly was not chosen by Republican votes. I have no defense to make of him. He may be, for aught I know, obnoxious to all the charges which have been made against him. I only wish it to be understood that he is no ally of the Republican party, and that the only interest the Republican party can have in this movement in Illinois, by the persons acting with him, is, that if it divides our opponents and makes the success of genuine, true Democratic Republican principles easier, of course we rejoice at it. The convention which recently met at Springfield, and nominated Mr. Dougherty for treasurer, and ex-Governor Reynolds for school commissioner, which claimed to be a convention friendly to the Administration, denounced the Republicans in the most gross and abusive language, misrepresenting our principles, totally falsifying them. They are no allies of ours.

Mr. BAYARD. Mr. President—

Mr. DOUGLAS. Will the gentleman allow me to say one word in reply, or explanation?

Mr. BAYARD. I shall be obliged to leave the city this afternoon.

Mr. DOUGLAS. I think it is due to myself that I should be allowed to say two or three words under the circumstances, and I will take it as a favor if the Senator from Delaware will yield me the floor for a few minutes. I will not detain the Senate long.

Mr. BAYARD. Well, sir, I yield.

Mr. DOUGLAS. I shall be brief; and I would not ask for this courtesy but that I think it is appropriate. My colleague makes just such a reply as I expected him to make. He says that his friends are not allies of Leib & Co.; but if they can take off enough Democratic votes to elect a Republican, very well. He also says "we intend to beat both of you at all hazards." I remember, many years ago, in the lower House of Congress, hearing a similar boast. A Democrat, named Andrew Kennedy, came from Indiana from a district which had four thousand Whig majority. When he got up to make a speech, one of his colleagues asked him how he got there. He replied: "I came from the strongest Whig district in the State of Indiana, one that gave General Harrison more than any district in the United States of America; I beat four of the ablest Whigs there were in that district, and I could have beaten three more if they had dared to run against me." [Laughter.] By getting the Whig party divided into four parts, he defeated them; and he could have beaten them if they had eight. That is the whole amount of my colleague's boast. He knows well that their hope of success depends solely on getting a few men under the direction of Leib & Co. to go off from the Democratic party, and thus elect Republicans to the Legislature, which they otherwise could not elect. He knows that if Illinois shall turn Republican, it will be owing to these of-

fice-holders, and this office-holders' convention. He will not himself say that he thinks this Danite convention was Democratic; but he will get over that by saying that our convention was not Democratic; that he does not think either of them was. I know very well why he thinks there is another and different Democracy—because he went off and left the Democratic party on the Kansas-Nebraska bill, just as Reynolds did, and just as Dougherty did, who are now candidates for State officers. They all went off together, abandoned the party together on that question. Is it not a curious fact that this convention of bolters and office-holders could not find one man in the State for them to run for a State officer who was not an anti-Nebraska man, and who did not attempt to break down the Democratic party on that account? Sir, it is the same combination of men that I have had to fight for twenty years, with here and there an exception; and the exceptions are the men whom Leib, professing to speak in the name of the Administration, has threatened, "you shall be removed from office if you do not bolt the party," or, "you shall not be appointed to office if you do not bolt the party." It is a simple question whether the Democratic party is to be divided and destroyed by what I now again charge is a coalition between the leaders of the Republican party and Leib & Co. in the State. I happen to have cut out an extract from a Republican paper that will give the clue to it. Here it is:

"So far as the people of Illinois are concerned, they just begin to appreciate Judge Douglas. The Republicans want an out and out Republican, or a Buchanan man. The Buchanan men want an out and out Buchanan man or a Republican. The Buchanan men and the Republicans in Illinois, strange to say, have a common object in view. The Buchanan men, slavery extensionists, wish to beat Judge Douglas; the Republicans, slavery prohibitionists, wish to beat Judge Douglas. Judge Douglas will be beaten."

I can take out extract after extract. Another says that Judge Douglas's position is more objectionable than Mr. Buchanan's. This is from the paper of John Wentworth, the great leader of the Republicans in Illinois, the man who hopes to be my successor if he can be elected. I need not tell you who he is. His history is known in the House of Representatives. There is not a man of them who will not come to the rescue of Leib, Cook, & Co., as quick as my colleague here does; and when he gets out home he will be more bold. The game is to be allies, and deny it. The game is to play into each other's hands, and act in concert. It is useless to deny it. I will charge the alliance, and I will prove the alliance. Yes, I could here, in the Senate, if I could make witnesses speak, prove that this man, Leib, went to the other side of the Chamber, and appealed to them to vote for the confirmation of a certain officer in Illinois, in order to help the Republicans beat Douglas. I could appeal to another Senator on that side for the same thing. I will not.

I tell you the evidence is complete of this coalition to break down the Democracy of Illinois, and I desire to know whether a former difference of opinion, or a present one if you please, on a single question, is sufficient to proscribe every man? If so, does not the Senator from Pennsylvania desire any one man in Pennsylvania, who believes Lecompton to be wrong, to vote the Democratic ticket? Where is your party, if you proscribe all men who think you are wrong on this question? Where is your party in Pennsylvania? How many will you have in Ohio? How many in New York? How many in Indiana? How many in any other northern State? You would have scarcely a corporal's guard. Is it the game to proscribe Illinois men, and tolerate differences of opinion everywhere else? I desire to know, because I intend to let these gentlemen understand that if they attempt to destroy the Democratic party in Illinois, the only northern State that never surrendered to the enemy, the means by which it is done will be exposed.

Mr. BAYARD. Mr. President—

Mr. BIGLER. I hope the Senator from Delaware will allow me to say a word in regard to some remarks of the Senator from Illinois.

Mr. BAYARD. I cannot yield for a moment; I only regret that I gave way before. Besides, my time is not now entirely at my own command. I shall not take long. Doubtless, the local divisions in the State of Illinois are matters of great importance to the Senate; but whether a Dr. Leib there is a Danite or is not a Danite; whether a



convention there has taken one course or another, are, in my judgment, matters not comparable to the questions involved in the resolutions which are properly before the Senate; and I regret exceedingly that during the discussion of resolutions which, within a few weeks past, have caused general excitement throughout the country, connected with great public interests, the honorable Senator from Illinois should have thought it necessary to interpose with the local difficulties in his own State; unless, indeed, we are to suppose that such things are of more importance than great questions of public interest which involve the rights of American citizens as against the aggressions of a foreign Power. I do not so deem them, and have, therefore, no comments to make on them, except to express my regret that they have been introduced into the debate on these resolutions, and I shall endeavor to do, very briefly, what it was my object to do, and but for which I should not have detained the Senate at this period of its session, even in reference to the resolutions before it.

These resolutions relate to acts of practical aggression by the Government of Great Britain, which have caused intense excitement throughout the country within the last month. It is true we have rumors now that the British officers have been acting under old orders; that the practical exertion of the right of search will be denied or disavowed by Great Britain; but the question still remains a grave one; and the reason why I have been induced to notice it is, that there is one American authority of high grade which countenances the doctrine of Great Britain in reference to the right of visit; and yet that American author is unsustainable in principle, and by the very authorities that are cited to sustain it. I allude to the treatise of Chancellor Kent; and but for the weight of character of that learned author, and the fact that what he says has been quoted and relied upon by the partisans of Great Britain, I should not have deemed it my duty to take any part in this matter other than to vote for the resolutions of the Committee on Foreign Relations.

Sir, the right of visitation and the right of search, as they are treated in all books on the law of nations, were never doubted to be one and the same thing, though the practical exercise of the right might be greater in one case than the other. Both are dependent upon the same principle, and were regarded as one until Great Britain attempted a distinction in the year 1841, through a communication made by Lord Aberdeen. I do not purpose at all to enter at large into the discussion of the question. I say that down to that time, they were always treated in all writers on the laws of nations as belligerent rights, and belligerent rights alone, and the principle upon which they are based proves beyond controversy that they must exist in that mode alone. The doctrine is, that all nations are equal; that the high seas belong to all beyond that part which is appropriated by and is considered as within the jurisdiction of the respective States, being within cannon shot of shore, or between jaws of land. The high seas belonging to all nations, and all nations being equal, the general principle is that no nation has a right to interrupt or molest vessels belonging to another nation, but the flag constitutes the territorial right on the high seas of every nation so far as to protect her vessels from every species of molestation whatever. The exception is, that during war, grounded on self-defense, the belligerent has the right to visitation and search for that purpose alone, and the reason is obvious: being at war, if the belligerent had not the right to question the flag when it floated over the vessel, the result might be, that the enemy's vessel, by hoisting the flag of a neutral, could entirely evade the vigilance of cruisers, and inflict depredations on commerce. That justifies the right of visitation, in order to see if the papers correspond with the flag. That is visit, or visitation.

But they have a right to go further; they have the right, inasmuch as goods contraband of war found on board of a neutral are liable to confiscation, to search in order to ascertain if there is any property of that kind there. That is admitted by all nations; but it is admitted only as a right of war. In time of peace there is no justification for any such right; and it is very evident that the moment you admit the right of molestation, the right of impeding a vessel even by detention, to make her lie to for

the purpose of being boarded to see whether her papers correspond with her flag, that moment you give a practical power to the nation which has the greatest maritime force to destroy the commerce of any other nation by abusing the right, leaving to the citizens of that nation the mere resource of going to their Government in individual cases to claim redress. The general effect would be the same; the commerce of the nation would be destroyed. It is on that ground that the American people and the American Government, following out the law of nations, which contains no possible sanction to any such doctrine, and which never was heard of until 1841, have denied the right of any nation, in time of peace, to visit or to search their vessels. The flag constitutes the protection. If the vessel is not American, but a pirate, then the cruiser, be she who she may, that undertakes to visit or capture her, has the right to do it, but does it at her peril. There is no right in the matter. If it turns out that she is a pirate, of course, under the law of nations, a pirate may be captured by anybody, and the crew may be condemned by the courts of any country and hung; because, being *hostes humani generis*, they have no right to protection. But, under the pretext of its being a pirate, or under the pretext that it is engaged in the slave trade or any other unlawful trade, by the laws of their own country, though not touched by the law of nations, if you permit a foreign nation to execute your laws for you by molesting, even by compelling your vessels to lie to for the purpose of visit to see what their papers are—if you permit that, you give up the control of your commerce, and the power to protect it in any quarter of the globe, to the nation to whom you yield such a right. The Americans have always resisted it; and Chancellor Kent, in his lifetime, in the first four editions of his celebrated Commentaries, maintained this doctrine, and, in fact, in every edition the text maintains it. It will be found in the first volume, page 153:

"In order to enforce the rights of belligerent nations against the delinquencies of neutrals, and to ascertain the real as well as assumed character of all vessels on the high seas, the law of nations arms them with the practical power of visitation and search. The duty of self-preservation gives to belligerent nations this right. It is founded upon necessity, and is strictly and exclusively a war right, and does not rightfully exist in time of peace, unless conceded by treaty."

So much for the text. The authorities cited are the *Le Louis*, decided by Lord Stowell, in 2 Dodson; the *Antelope*, in 10 Wheaton. Then comes the note. I may remark that this note never appeared until the year 1844. The question arose between the American and British Governments in 1841, and I am sorry to say that either the approach of advancing age, or some other cause, which it is probably vain to speculate about, induced so eminent a man to lay down the position that is laid down in this note, and which certainly I can show is directly at war with the authorities that he cites to sustain it. I will read the note:

"The British Parliament, by statute, in August, 1839, in order more effectually to suppress the slave trade, and especially as against Portugal—a power that had grossly violated her treaty with England on that subject—authorized the power of visitation and search in time of peace. The British Government disclaim the right of search in time of peace; but they claim, at all times, the right of visit, in order to know whether a vessel pretending, for instance, to be American and hoisting the American flag, is really what she seems to be. (Lord Aberdeen's dispatch of December, 1841, to the American Minister, Mr. Stevenson.) But the Government of the United States do not admit the distinction between the right of visitation and the right of search. They consider the difference to be one rather of definition than principle, and that it is not known to the law of nations. They will not admit the exercise of the claim of visit to be a right; while the British Government concedes that it, in the exercise of the right of visit to ascertain the genuineness of the flag which a suspected vessel bears, any injury ensues, prompt reparation would be made. The mutual right of visitation and search, in reference to the slave trade, has even been conceded by the European Governments of Austria, France, Great Britain, Prussia, and Russia, who were parties to the quintuple treaty at London, of December, 1841. (See Mr. Webster's dispatch, as American Secretary of State, to Mr. Everett, the American Minister at London, of March 25, 1853.) This treaty was subsequently ratified by all the contracting parties except France, who remained bound only to a restrictive right of search under the conventions of 1831 and 1833."

Now comes the objectionable passage:

"The inter-visitation of ships at sea is a branch of the law of self-defense, and is, in point of fact, practiced by the public vessels of all nations, including those of the United States, when the piratical character of a vessel is suspected. The right of visit is conceded for the sole purpose of ascertaining the real national character of the vessel sailing under suspicious circumstances, and is wholly distinct from the

right of search. It has been termed by the Supreme Court of the United States the right of approach, for that purpose; (the *Marianna Flora*, 11 Wheaton, 1, 43;) and it is considered to be well warranted by the principles of public law and the usage of nations."—*Bynk. Q. J.*, *Pub. lib. i. c. 114. S. P.*

That is an express recognition, after stating the distinction that Great Britain claims the right of visit; and it is said that it was recognized by the Supreme Court of the United States in the case of the *Marianna Flora*. The fact is just the contrary. The attempt to confuse what is called the right of approach by the Supreme Court of the United States, in the case of the *Marianna Flora*, with the right of visit, is a positive absurdity, come from what source it may. I will state the substance of that case, and read a few extracts from the opinion of the court, in order to show that the learned commentator here has, I think with grievous disadvantage to his own fame and to the honor and interests of his country, suffered, in the advance of life, such language to be imbibed in a book printed under his authority. The facts in the case of the *Marianna Flora* were these: in 1821 Commodore Stockton was a commander in the American Navy; and while at sea, he observed a vessel at some nine miles distance, which had a signal raised in such a manner as would ordinarily indicate distress. He approached her, not for the purpose of visit, but on principles of humanity, for the purpose of relief. This vessel was a Portuguese vessel. When he approached her within gunshot, she fired a gun ahead of him; he immediately hoisted his colors; she had none flying. He continued to approach, not for the purpose of visit, but on account of the signal she had indicated. The vessel commenced firing not only ahead of him, but over him; first, with grape-shot, which fell short, and then with shot that passed over him. Under these circumstances he continued his approach with his flag flying, the vessel still firing. He considered that it was war made upon him, and that he would be justified in resisting it, and that the vessel must be a pirate. He accordingly went the proper distance, gave her a broadside from his carronades, and she surrendered; but, up to the time of her surrender, she had no flag flying whatever. It turned out, when he boarded her, that she claimed to be a Portuguese vessel; and afterwards, when inquiry was made, she was found to be a Portuguese vessel, with a valuable cargo on board.

The case of this vessel had several aspects in the Supreme Court. Commodore Stockton, in consequence of the attack made on him when he was approaching, not for any purpose of visit, which attack he deemed an act of aggression, and commencing war on the ocean, captured her and sent her in. The court held that there was no ground to send her in; but they also held that there was ground to capture the vessel, because the first fault was on her part, as she had commenced warlike aggression on an American cruiser with a flag flying, and, therefore, that force could be retorted for force under these circumstances. But an examination of her cargo showed that she was not engaged in any illicit or improper trade; she was not a pirate, and therefore could not be condemned. The captors further claimed damages for having sent her in; the owners claimed damages for the capture. The court held that the capture was justifiable; though she was not liable to condemnation, not being a pirate; but they would not give the damages in the case solely because she had been the aggressor herself, and had commenced war upon the ocean, and so justified her capture, but it had no relation to the right of visit at all. In the course of the decision, the Supreme Court of the United States lay down the doctrine on the subject.

Mr. HUNTER. Will the Senator allow me to say to him that there is great apprehension we shall be left without a quorum?

Mr. BAYARD. I shall speak but a very few minutes more.

Mr. TOOMBS. Do you not propose to leave this evening yourself?

Mr. BAYARD. Yes.

Mr. TOOMBS. Then you ought to allow us to get through business.

Mr. BAYARD. Of course then I must give up making the few remarks more that I wish to make. I have not introduced anything irrelevant, I have confined myself to the questions presented in the resolutions, and I think it is very

hard that I cannot be permitted to conclude what I have to say, when I shall occupy but a few minutes.

Mr. TOOMBS. I have no objection.

Mr. BAYARD. What I have to say is very brief. I have stated the substance of the case of the Marianna Flora, and here is the language of Judge Story, who delivered the opinion of the court:

"In considering these points, it is necessary to ascertain what are the rights and duties of armed and other ships, navigating the ocean in time of peace. It is admitted that the right of visitation and search does not, under such circumstances, belong to the public ships of any nation. This right is strictly a belligerent right, allowed by the general consent of nations in time of war, and limited to those occasions. It is true that it has been held in the courts of this country that American ships, offending against our laws, and foreign ships, in like manner offending within our jurisdiction, may, afterwards, be pursued and seized on the ocean, and rightfully brought into our ports for adjudication. This, however, has never been supposed to draw after it any right of visitation or search. The party, in such case, seizes at his peril. If he establishes the forfeiture, he is justified; if he fails, he must make full compensation in damages."

Again:

"Upon the ocean, then, in time of peace, all possess an entire equality. It is the common highway of all, appropriated to the use of all; and no one can vindicate to himself a superior or exclusive prerogative there. Every ship sails there with the unquestionable right of pursuing her own lawful business without interruption; but whatever may be that business, she is bound to pursue it in such a manner as not to violate the rights of others. The general maxim in such cases is, *sic utere tuo, ut non alienum laedas*."

In reference to the right of approach, the argument was, that the Portuguese vessel had a right to fire into Captain Stockton, because he approached her. The court say on that point:

"It has been argued that no ship has a right to approach another at sea, and that every ship has a right to draw round her a line of jurisdiction, within which no other has a right to intrude; in short, that she may appropriate so much of the ocean as she may deem necessary for her protection, and prevent any nearer approach. This doctrine appears to us novel, and is not supported by any authority. It goes to establish upon the ocean a territorial jurisdiction like that which is claimed by all nations within cannon shot of their own shores, in virtue of their general sovereignty. But the latter right is founded on the principles of sovereign and permanent appropriation, and has never been successfully asserted beyond it. Every vessel undoubtedly has a right to the use of so much of the ocean as she occupies, and as is essential to her own movements. Beyond this, no exclusive right has ever been recognized, and we see no reason for admitting its existence. Merchant ships are in the constant habit of approaching each other on the ocean, either to relieve their own distress, to procure information, or to ascertain the character of strangers; and, hitherto, there has never been supposed in such conduct any breach of the customary observances, or of the strictest principles of the law of nations. In respect to ships of war sailing, as in the present case, under the authority of their Governments, to arrest pirates and other public offenders, there is no reason why they may not approach any vessels described at sea, for the purpose of ascertaining their real characters. Such a right seems indispensable for the fair and discreet exercise of their authority; and the use of it cannot be justly deemed indicative of any design to insult or injure those they approach, or to impede them in their lawful commerce. On the other hand, it is as clear that no ship is, under such circumstances, bound to lie by, or wait the approach of any other ship. She is at full liberty to pursue her voyage in her own way, and to use all necessary precaution to avoid any suspected sinister enterprise or hostile attack."

The British doctrine is that they not only have a right of approach, and such is the doctrine of Chancellor Kent, but the right to compel the ship to submit to a visit to ascertain whether her papers correspond with her flag. This claim we resist, and mean to resist. That is the deduction drawn in the decision of the Supreme Court, in the case of the Marianna Flora; and yet it is the sole authority, except a quotation from Byrkershoek, on which this note of Chancellor Kent is founded.

Mr. WADE. I wish to inquire of the gentleman whether there is any variety of opinion here upon that point in the Senate?

Mr. BAYARD. I do not know that there is.

Mr. WADE. I have heard none, and I suppose none exists.

Mr. BAYARD. I am aware of that, but I know this authority has been relied upon, coming from an American author, and I have noticed it for that reason. I will merely state as to the quotation from Byrkershoek, that it does not sustain the note, that it is a treatise on the laws of war, that it relates solely to the rights of belligerents against neutrals, and, therefore, can be no justification for the doctrine stated by Chancellor Kent in this note.

I will not detain the Senate longer on this subject, but I will state what I suppose ought to be

the course of our Government under the circumstances, for I consider that makes the gravity of the question. Suppose Great Britain to do what I presume she will do: disavow that the authority was meant to be exercised offensively, but claim still the right; the question arises whether we ought now to insist upon her abandonment of the right, or whether there may not be a medium course which will protect our commerce against her future action, and which, at the same time, will not compel a proud and powerful nation to abandon an abstract right. I suppose there is such a course; I suppose that the American Government have now a right to say to Great Britain, "you have violated our rights under orders, no matter when issued; they have been practically exercised at our own doors, to the molestation and injury of our commerce; you knew when you issued these orders that we controverted the right of visit, though you asserted it; you have got one of two courses to take; either to abandon the right of visit altogether, or if you say you will not do that, as an abstract right, then we ask from you that you will agree in practice never to exercise it against the flag of the United States without previous notice to the Government of the United States." If she does that, then of course on such a notice war would necessarily follow, and the protection would be ample, on account of requiring such a notice from Great Britain.

Mr. HUNTER. I move that we go into executive session.

Mr. MASON. I hope my colleague will allow the vote to be taken on the resolutions.

Mr. TOOMBS. The motion is not debatable. I can give a reason for it. I do not intend that these resolutions shall pass without being heard upon them after these speeches. I do not mean to let them be sprung on me, for I am opposed to them.

Mr. MASON. I submit to the Senator from Georgia, and to the Senate, that, although I introduced the resolutions, I have not occupied ten minutes in debating them.

Mr. TOOMBS. I have not occupied any time on them; and I wish to be heard on so important a matter.

Mr. MASON. Why not let the resolutions be voted upon, and let the Senate determine whether they will pass them or not?

Mr. TOOMBS. I am opposed to them, and I want to speak on them.

Mr. MASON. Let the vote be taken; and if a majority of the Senate agree with the Senator from Georgia, let them be voted down. I hope the Senate will not go into executive session until we dispose of these resolutions.

The PRESIDENT *pro tempore*. On a motion to proceed to the consideration of executive business, if the question to be discussed requires secrecy, it is the duty of the Chair to direct the galleries to be cleared, and the doors to be closed.

Mr. MASON. I am aware of that. If my colleague will not withdraw his motion, the resolutions will be ended, I am satisfied. Let the responsibility be where it properly belongs.

Mr. HUNTER. I will not press my motion, if my colleague insists on keeping up his resolutions. I have heard that it is doubtful whether we shall have a quorum after three o'clock; but I withdraw the motion.

Mr. TOOMBS. I renew the motion. I wish to do executive business; and then, if we have time to discuss this question, I am perfectly willing to stay a month for that purpose, because it is a very important matter. It concerns the character, and probably the peace of the country.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

#### IN SENATE.

WEDNESDAY, June 16, 1858.

On motion of Mr. DOOLITTLE, the reading of the Journal was dispensed with.

#### ORDER OF BUSINESS.

Mr. JONES. I desire to call up the resolution I offered yesterday, to continue the clerks to the standing committees of the Senate for sixty days, as has been usual heretofore. I believe that kind of order has been made for the last few years. It is necessary for the clerks to arrange their papers

and make up their dockets, in order that, if they should not be appointed at the next session of Congress, their successors may understand how the business lies.

The PRESIDENT *pro tempore*. The Chair can hardly shut his eyes to the fact that there is not more than a dozen Senators in the Senate.

Mr. STUART. There must be, or the Chair could not order the reading of the Journal.

Mr. JONES. I am afraid there is not a quorum, and I trust there will not be at this session, so that we may get home.

Mr. STUART. The rules provide that the Journal cannot be read until a quorum is present. That settles the question thus far until it is ascertained otherwise.

The PRESIDENT *pro tempore*. The Sergeant-at-Arms reports to me that there is not a quorum in the Chamber, and it will not be in order to entertain a motion without a quorum. [A pause.] Will the Senate determine what action they will take? The Chair has announced that he is informed by the Sergeant-at-Arms that there is not a quorum in attendance.

Mr. HAYNE. I suggest that the Sergeant-at-Arms, or some one, go to look for Senators. I dare say a great many of them may be found and brought here. If they are found, I hope they will be brought here and taken possession of anyhow.

The PRESIDENT *pro tempore*. It is within the power of the Senate to send for Senators, if they shall order it.

Mr. STUART. My suggestion is merely this: I think there is a quorum of the Senate in and about the building; and I respectfully submit that, under our rules, the Chair can hardly determine, without a call of the Senate or a call of the yeas and nays, that there is not a quorum present; but, with a view of ascertaining that question, I move—

The PRESIDENT *pro tempore*. The Chair will say to the Senator that he has acted on the report of the Sergeant-at-Arms.

Mr. STUART. He cannot make a report. There is but one way by which the Chair can ascertain that there is not a quorum present, and that is by a regular call of the Senate on the yeas and nays upon some question. With a view of avoiding all difficulties of that kind, I move that the Senate proceed to the consideration of executive business; and when that is done, we can ascertain whether there is a quorum or not. I think there is a quorum about the building. Let us take the yeas and nays, if you please, on that question.

The yeas and nays were ordered; and being taken, resulted—yeas thirty-eight, nays none; as follows:

YEAS—Messrs. Benjamin, Bigler, Bright, Broderick, Clay, Clingman, Crittenden, Davis, Doolittle, Douglas, Fitch, Fitzpatrick, Foster, Hammond, Harlan, Hayne, Houston, Hunter, Iverson, Johnson of Arkansas, Jones, Kennedy, King, Mallory, Mason, Poik, Pugh, Reid, Rice, Sebastian, Sliedell, Stuart, Thompson of Kentucky, Thompson of New Jersey, Toombs, Trumbull, Wade, and Wright—38.

So the motion was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened.

#### BRITISH AGGRESSIONS.

Mr. MASON. I move to take up for consideration, the resolutions in regard to British aggressions.

The question being put, on a division, there were—yeas 17, noes 7; no quorum voting.

Mr. MASON. I ask for the yeas and nays.

Mr. PUGH. I move that the Senate adjourn.

Mr. CLAY. I trust that motion will be withdrawn until I can make a report.

Mr. PUGH. I will accommodate my friend. Mr. CLAY. It is a report that will not take a minute.

Mr. MASON. I am sorry I cannot do it. I think it is so important to have these resolutions acted on by the Senate that I am not willing to recede.

Mr. CLAY. This report involves the personal feelings of some very respectable gentlemen in New Orleans who memorialized Congress for relief. It involves, also, the feelings of the Secretary of War, who transmitted us a letter on the subject—



Mr. MASON. If the report can be made and nothing further done, I shall not object.

Mr. CLAY. There will be no discussion. I am going to ask to be discharged.

Mr. MASON. If the Senator will allow it, to be made without interfering with my resolutions, I will give way.

Mr. CLAY. Yes. The Committee on Commerce, to whom was referred the memorial of Righter & Crain, together with a joint resolution to authorize the Secretary of War to modify a contract made with Righter & Crain for the removal of obstructions in the Southwest Pass and Pass à l'Ostre, at the mouth of the Mississippi river, have had the same under consideration, and have instructed me to report the resolution and memorial back, and asked to be discharged from their further consideration on the ground that the work has been completed, the contract complied with, and there is no desire for further relief, and no necessity for the action of Congress.

The committee were discharged.

Mr. MASON. I hope that the vote will be taken by yeas and nays on the motion to take up my resolutions.

The yeas and nays were ordered; and being taken, resulted—yeas 32, nays 3; as follows:

YEAS—Messrs. Allen, Bell, Benjamin, Bigler, Brown, Clay, Clingman, Crittenden, Davis, Douglas, Fitch, Fitzpatrick, Gwin, Hammond, Hayne, Houston, Hunter, Iversen, Johnson of Arkansas, Jones, Kennedy, King, Mason, Polk, Reid, Sebastian, Slidell, Stuart, Trumbull, Wade, Wright, and Yulee—32.

NAYS—Messrs. Broderick, Harlan, and Pugh—3.

So the motion to take up the resolutions was agreed to.

Mr. MASON. Notwithstanding the important character of these resolutions, I have refrained from debating them, as Senators will bear witness. I have not spoken ten minutes on them. I trust the vote will be adopted without debate.

The resolutions were adopted, as follows:

*Resolved*, (as the judgment of the Senate,) That American vessels on the high seas, in time of peace, bearing the American flag, remain under the jurisdiction of the country to which they belong, and, therefore, any visitation, molestation, or detention of such vessels by force, or by the exhibition of force, on the part of a foreign Power, is in derogation of the sovereignty of the United States.

*Resolved*, That the recent and repeated violations of this immunity, committed by vessels-of-war belonging to the navy of Great Britain in the Gulf of Mexico, and the adjacent seas, by firing into, interrupting, and otherwise forcibly detaining them on their voyage, requires, in the judgment of

the Senate, such unequivocal and final disposition of the subject, by the Government of Great Britain and the United States, touching the rights involved, as shall satisfy the just demands of this Government, and preclude hereafter the occurrence of like aggressions.

*Resolved*, That the Senate fully approves the action of the Executive in sending a naval force into the infested seas with orders "to protect all vessels of the United States on the high seas from search or detention by the vessels-of-war of any other nation." And it is the opinion of the Senate that, if it becomes necessary, such additional legislation should be supplied in aid of the executive power as will make such protection effectual.

On motion of Mr. MASON, the vote was directed to be entered as "unanimous."

ADJOURNMENT SINE DIE.

Mr. JONES. I call up my resolution for the clerks, and I hope the Senate will take it up. It is to continue the committee clerks for sixty days.

Mr. SLIDELL. I move that the Senate adjourn *sine die*.

Mr. JONES. Take the vote on this question, if you please.

Mr. SLIDELL. I am opposed to any of these extra allowances. I move that the Senate adjourn.

The motion to adjourn was agreed to; and the Senate adjourned *sine die*.

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